

Appl. No. 10/612,641
Amdt. dated March 30, 2006
Reply to Office Action of February 2, 2006

REMARKS/ARGUMENTS

Claims 1 -29 are presented for Examiner Hill's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Independent claims 1, 10, 16 and 22 have been amended to recite that the disposable pant-like undergarment has "a closed construction". Basis for this language is found in the specification at page 3, lines 15 – 16, and is also shown in Fig. 1 of the drawings. Claims 1, 10, 16 and 22 have also been amended to recite that the front panel 12 has "an inner surface (14) and an outer surface (16)". Basis for this language is found in the specification at page 3, lines 23 – 26. The back panel 52 also has "an inner surface (54) and an outer surface (56)". Basis for this language is found in the specification at page 8, lines 21 – 23. In addition, the claims 1, 10, 16 and 22 have been amended to recite that the first elastic band is secured to "the outer surface" of the front panel and the third elastic band is secured to "the outer surface" of the back panel. Basis for this language is found in the specification at page 7, lines 16 – 17, and at page 11, lines 16 -17, respectively. Furthermore, the claims have been amended in paragraph b) to recite that the back panel is "discontinuous" from the front panel. Basis for this language is found in the specification at page 12, lines 21 – 22. Lastly, the claims have been amended to recite that the absorbent assembly is secured to "the inner surface (14) of the front panel (12) and to the inner surface (54) of the back panel (52)". Basis for this language is found in the specification at page 13, lines 2 - 6. No new matter has been introduced by way of these amendments and therefore they should be entered at this time.

Claim 16 has been further amended to recite that the first and third elastic bands extend "completely across said front panel from said first side edge to said second side edge". Basis for this language is found in the specification at page 7, lines 34 – 35, and page 11, lines 34 – 35, respectively. No new matter has been introduced by way of these amendments and therefore they should be entered at this time.

New independent claim 29 has been added which is similar to previously presented claim 1 along with the language in paragraph b) that the back panel is "discontinuous" from the front panel. Basis for this language is found in the specification at page 12, lines 21 – 22. No new matter has been introduced by way of this new claim and therefore it should be entered at this time.

By way of the Office Action mailed February 2, 2006, Examiner Hill rejected claims 1 – 13 and 16 - 28 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time

Appl. No. 10/612,641
Amdt. dated March 30, 2006
Reply to Office Action of February 2, 2006

the invention was made and thus unpatentable over U.S. Patent Number 6,940,887 to Rajala et al. in view of EP Patent Number 1,072,243 A2 to Kuwasaka. This rejection is respectfully **traversed** in view of the amendments to the claims.

Applicants' invention utilizes a three-piece structure having a front panel, a back panel and an absorbent assembly secured to the front and back panels. In paragraph b) of independent claims 1, 10, 16 and 22, Applicants claim that "the back panel is discontinuous from the front panel". Rajala et al. differs in that he teaches a single piece outer cover layer 12 having a front body portion 16 and a back body portion 20. Likewise, Kuwasaka also teaches a single piece outer cover construction. Neither Rajala et al. or Kuwasaka teach Applicants' three-piece structure. In view of this difference, Applicants believe that the combination of Rajala et al. and Kuwasaka fail to teach their claimed invention and independent claims 1, 10, 16 and 22 should be allowed at this time.

Applicants' amended independent claims 1, 10, 16 and 22 further differ over the combination of Rajala et al. and Kuwasaka in a number of structural and functional ways. First, Applicants' amended claims 1, 10 16 and 22 recite a "closed construction". The garment in Rajala et al. is a closed construction but the garment taught by Kuwasaka is an open construction. Kuwasaka does not have a pair of seams as recited by Applicants in claims 1, 10 16 and 22 in paragraph d). Kuwasaka is an open configuration that relies on fasteners 8 and target tape 9 (see Col. 4, lines 35 – 43) to obtain a closed construction. However the closed construction occurs only after the garment is fitted to a baby. Therefore, Kuwasaka teaches away from Applicants' invention. Accordingly, it is improper to combine Kuwasaka with Rajala et al. in trying to anticipate Applicants' claimed invention.

Second, Applicants' independent claims 1, 10, 16 and 22 recite that the front and back panels have inner and outer surfaces and that the first and third elastic bands are secured to the outer surfaces. Rajala et al. does not teach first and third elastic bands. In addition, Kuwasaka teaches away from this structure, see Col. 4, lines 32 – 35 wherein Kuwasaka states:

"These elastic members 7, 7 are disposed between the topsheet 2 and the backsheet 3 and are secured under tension to the inner surface of at least one of these two sheets 2, 3."

In view of this teaching, Kuwasaka does not teach securing the first and third elastic bands to the outer surface of the front and back panels. Accordingly, Applicants' independent claims 1, 10, 16 and 22 are patentably distinct over the combination of Rajala et al. and Kuwasaka and should be allowed at this time.

Appl. No. 10/612,641
Amdt. dated March 30, 2006
Reply to Office Action of February 2, 2006

Third, Applicants' recite in paragraph c) that their absorbent assembly is secured to the inner surfaces of the front and back panels. This differs over Rajala et al. where no absorbent assembly is shown in the drawings and in the specification at Col. 4, lines 55 - 63, Rajala et al. appears to be teaching that the absorbent pad is positioned over the crotch portion 24. There is no teaching that the absorbent assembly is secured to the inner surfaces of the front and back panels. Likewise, Kuwasaka differs in that his absorbent is positioned between the top and back sheets of the outer garment. Kuwasaka does not teach that an absorbent assembly, including a bodyside liner, an outer cover and an absorbent positioned therebetween, is secured to the inner surfaces of the front and back panels. Accordingly, Applicants' independent claims 1, 10, 16 and 22 structurally and functionally differ from the combination of Rajala et al. and Kuwasaka. In view of this, Applicants' independent claims 1, 10, 16 and 22 should be allowed at this time.

In addition, Applicants' independent claim 16 is further distinguishable over the combination of Rajala et al. and Kuwasaka in that in paragraphs a) and b) it is recited that the first and third elastic bands extend completely across the front and back panels. As Examiner Hill correctly pointed out, Rajala et al. does not have first and third elastic bands. Kuwasaka does have first and third elastic bands but they do not extend completely across the front and back panels. Accordingly, both of these references fail to teach Applicants' claimed structure. In view of this, claim 16 should be allowed at this time.

Dependent claims 2 - 9, 11 - 15, 17 - 21 and 23 - 28 are also in condition for allowance since they depend from one of the patentably distinct independent claims 1, 10, 16 or 22.

New claim 29 is patentably distinct over the combination of Rajala et al. and Kuwasaka in that it recites that the back panel is discontinuous from the front panel. Neither Rajala et al. or Kuwasaka show or teach this feature. A three-piece undergarment is structurally different from a garment having a one-piece outer cover. Furthermore, a garment constructed from a one-piece outer cover is manufactured differently than Applicants' three-piece construction. Accordingly, Applicants believe that claim 29 is patentably distinct over the cited art and should be allowed at this time.

By way of the Office Action mailed February 2, 2006, Examiner Hill rejected claims 14 - 16 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 6,940,887 to Rajala et al. in view of EP Patent Number 1,072,243 A2 to Kuwasaka and further in view of U.S. Patent Number 5,735,839 to Kawaguchi et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Claims 14 and 15 depend from amended claim 10 which is patentably distinct over the combination of Rajala et al. and Kuwasaka for the reasons stated above. Kawaguchi et al. was added to show

Appl. No. 10/612,641
Amdt. dated March 30, 2006
Reply to Office Action of February 2, 2006

that the number of elastic strands in the waist band can be equal to or be different from the number of elastic strands in the leg bands. However, the combination of all three references still fail to teach or disclose Applicants' three-piece structure wherein the front and back panels are discontinuous from one another, and where the absorbent assembly is secured to the inner surface of the front and back panels. Furthermore, none of the three references teach or disclose that the first and third elastic bands are secured to the outer surface of the front and back panels, respectively. Accordingly, Applicants believe that dependent claims 14 and 15 are patentably distinct over the three cited references and should be allowed at this time.


Applicants have also reviewed the teaching of Yamamoto et al. which was made of record but not relied upon by Examiner Hill. Applicants do not believe that Yamamoto et al. anticipates their invention for the same reasons stated above.

For the reasons stated above, it is respectfully submitted that amended independent claims 1, 10, 16 and 22, along with dependent claims 2 – 9, 11 – 15, 17 -21 and 23 -28, as well as new claim 29 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,
CYNTHIA D. MAAS ET AL.

By: 
Thomas J. Connelly
Registration No.: 28,404
Attorney for Applicant(s)

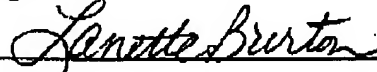
CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on March 30, 2006, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

Typed or printed name of person signing this certificate:

Lanette Burton

Signature:



Page 12 of 12